

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

QUINTIN J. BALLENTINE,

Plaintiff,

-against-

JACOB BARAK and POST GRADUATE  
CENTER FOR MENTAL HEALTH,

Defendants.

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 6/18/2025

25-CV-515 (AT) (BCM)

**ORDER**

**BARBARA MOSES, United States Magistrate Judge.**

Plaintiff, proceeding pro se, commenced this action by filing a Complaint on January 16, 2025. (Dkt. 1.) On February 26, 2025, the Court directed the Clerk of Court to issue summonses and deliver to the U.S. Marshals Service (USMS) all other paperwork necessary for the USMS to effect service on defendants Jacob Barak and Post Graduate Center for Mental Health. (Dkt. 6.) On March 10, 2025, before service of the original Complaint was effected, plaintiff filed an Amended Complaint. (Dkt. 11.) On March 12, 2025, the Court instructed the Clerk of Court to issue an amended summons as to each defendant, and deliver to the USMS all other paperwork necessary for the USMS to effect service of the Amended Complaint on defendants. (Dkt. 12.) On March 31, 2025, defendant Barak signed two forms acknowledging receipt of the amended summons and Amended Complaint, thereby waiving service on behalf of both defendants. (Dkt. 16.)

In a letter dated March 31, 2025 (Dkt. 17), the Vice President of Residential Operations of defendant Post Graduate Center for Mental Health (not an attorney admitted to practice before this Court) denied all of the allegations set forth in plaintiff's original Complaint. On May 30, 2025, counsel entered a notice of appearance on behalf of both defendants (Dkt. 18) and requested a "motion conference for the dismissal of [plaintiff's] Amended Complaint pursuant to Fed. R. Civ. P. 12(b)(6)." (Dkt. 19 at 1.) On June 3, 2025, the district judge denied defendants' motion for a pre-

motion conference but directed defendants to "move to dismiss plaintiff's complaint at their convenience." (Dkt. 22.) On June 3, 2025, before any Rule 12(b)(6) motion was filed, plaintiff submitted a document dated June 1, 2025, and labeled "Amended Complaint." (Dkt. 21.) It appears that plaintiff was attempting to further amend his Amended Complaint (which requires the consent of all parties or an order of this Court, *see* Fed. R. Civ. P. 15(a)(2)).

On June 12, 2025, plaintiff filed a letter requesting that the Court "move forward with the discovery phase and any other necessary pretrial activities." (Dkt. 25.) On June 16, 2025, defendants filed a letter opposing plaintiff's request, noting that they "intend to file a motion to dismiss Plaintiff's Second Amended Complaint, which is now the operative pleading in this action, on or before July 21, 2025." (Dkt. 26.) The Court construes defendants' letter, in relevant part, as their consent to the filing of the pleading at Dkt. 21 as plaintiff's Second Amended Complaint (SAC).

In light of defendants' forthcoming motion to dismiss, plaintiff's request to "move forward with the discovery phase" is DENIED. Defendants must file their motion to dismiss the SAC no later than **July 21, 2025**.

The Clerk of Court is respectfully directed to update the docket to reflect that the document at Dkt. 21 is the Second Amended Complaint.

Dated: New York, New York  
June 18, 2025

**SO ORDERED.**



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**BARBARA MOSES**  
**United States Magistrate Judge**